

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures–Hearings

Article 3. Administrative Hearing Procedures for Petitions for Review of Complaints

Subarticle 4. Issuance of and Response to Complaints

§ 60065.18. Response to Complaint by Respondent.

(a) Within 30 days after service of the complaint, the respondent or counsel for the respondent may file a response to the complaint with the hearing office, in which the respondent may:

(1) Object to the complaint on the ground that it does not state acts or omissions upon which the agency may proceed;

(2) Object to the form of the complaint on the ground that it is so indefinite or uncertain that the respondent cannot identify the transaction or prepare a defense;

(3) Admit or deny the complaint, in whole or in part, specifying each allegation of fact or conclusion of law as to liability which is in dispute;

(4) Present new matters by way of affirmative defenses; or

(5) Oppose or agree to pay the penalty amount proposed in the complaint.

(b) The time period for response may be extended:

(1) By stipulation of the parties for 30 additional days to allow the parties to conduct informal settlement negotiations; or

(2) At the discretion of the hearing officer, for a period of up to 60 days, if the respondent can show good cause and if the complainant is not prejudiced by such a delay.

(c) Each uncontested allegation in the complaint shall be deemed admitted by the respondent.

(d) If the respondent fails to respond to the complaint in the time periods provided in this section, the matter shall be considered a default, pursuant to section 60065.41 and the respondent shall be considered to have waived his or her right to appear in the matter covered by the complaint.

(e) If a complaint is amended prior to the time respondent's response was due under subparagraph (a), respondent shall have 15 additional days from the date of service of the amended complaint to file the response.

(f) The respondent may move to amend its response to the complaint. Such motion must include language of the proposed amendment. The hearing officer may grant the motion upon finding that good cause exists and that the amendment is in the interest of justice.

NOTE: Authority cited: Sections 39600, 39601, 43028 and 43031(a), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Sections 43028 and 43031(a), Health and Safety Code.

REFERENCE